

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RALPH FRANCIS DELEO,	:	CIVIL ACTION NO. 1:15-CV-2321
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
S. SPAULDING, WARDEN,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 9th day of May, 2016, upon consideration of the report (Doc. 12) of Magistrate Judge Joseph F. Saporito, Jr., recommending the court dismiss the amended complaint (Doc. 8) of plaintiff Ralph Francis Deleo (“Deleo”) for failure to exhaust administrative remedies as required by 42 U.S.C. § 1997e(a), (see Doc. 12 at 4-11); see also 28 U.S.C. §§ 1915(e)(2)(B)(i)-(ii), 1915A(b)(1), and further recommending the court deny Deleo’s motion (Doc. 11) for appointment of counsel as moot, (see Doc. 12 at 11), and it appearing that Deleo did not object to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure of a party to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should “afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order

to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following an independent review of the record, the court in agreement with Judge Saporito’s recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 12) of Magistrate Judge Saporito is ADOPTED.
2. The amended complaint (Doc. 8) of plaintiff Ralph Francis Deleo (“Deleo”) is DISMISSED without prejudice for failure to exhaust administrative remedies.
3. Deleo’s motion (Doc. 11) for appointment of counsel is DENIED as moot.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania